

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

**Case No. 85-CR-176
13-C-671**

TERRY CONNER,

Movant.

DECISION AND ORDER

As to Count I of a superseding indictment, Terry Conner was sentenced to life in prison by Senior Judge John W. Reynolds on May 16, 1988. Just over 25 years later, Conner filed this action which he labels a petition for a writ of habeas corpus pursuant to a variety of jurisdictional handles: 28 U.S.C. §§ 1651(a) (All Writs Act), 2241 (General Habeas), and 2255 (Motions Attacking Sentence by Prisoner in Federal Custody).


Conner argues that a life sentence under Count I was “not available” pursuant to 18 U.S.C. § 4205(a) (now-repealed), which provides that “[w]henever confined and serving a definite term or terms of more than one year, a prisoner shall be eligible for release on parole after serving one-third of such term or terms or after serving ten years of a life sentence or of a sentence of over thirty years, except to the extent otherwise provided by law.” This statutory provision does not preclude the imposition of a life sentence. To be clear, Conner does not argue that he was improperly denied

parole, only that the original sentence was unlawful. *See, e.g., United States v. Kennedy*, 851 F.2d 689, 690 (3d Cir. 1988) (“challenge to the Parole Commission’s execution of a sentence is properly raised in a habeas corpus petition under” § 2241); *Hajduk v. United States*, 764 F.2d 795, 796 (11th Cir. 1985); *United States v. McGee*, No. 91 CR 477-2, 1997 WL 126993, at *1 (N.D. Ill. Mar. 13, 1997). For that reason, the Court construes this matter as an action under Section 2255, which will be denied both because it is without merit and because it is untimely. 28 U.S.C. 2244(d)(1).

Conner’s petition is **DENIED**. The Clerk of Court is directed to enter judgment accordingly. The Court will not issue a certificate of appealability. Rule 11(a), Rules Governing Section 2255 Proceedings.

Dated at Milwaukee, Wisconsin, this 20th day of June, 2013.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge